



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

September 10, 1993

Honorable John T. Montford
Chair
Finance Committee
Texas State Senate
P.O. Box 12068
Austin, Texas 78711

Letter Opinion No. 93-82

Re: Whether the attorney general may delegate the function of contracting with "eligible volunteer advocate programs" under section 34.602, Family Code, to the "statewide organization" selected by the attorney general for overall administration of the program pursuant to section 34.603, Family Code (ID# 22032)

Dear Senator Montford:

You have requested our opinion regarding the proper construction of House Bill 1662, Acts 1993, 73d Leg., ch. 312, at 3957, which was enacted by the recent regular session of the legislature. That bill amended subchapter D, chapter 72 of the Government Code and transferred the substance of those provisions to subchapter D, chapter 34 of the Family Code.

The relevant provision of former chapter 72, enacted in 1989, Acts 1989, 71st Leg., ch. 922, § 1, provided for the establishment of court-appointed volunteer advocate programs for "abused or neglected children" who are either "the subject of a suit affecting the parent-child relationship brought by a governmental entity," or who are "under the control or supervision of the child protective services division of the Texas Department of Human Services."¹ Gov't Code § 72.041. Chapter 72 also designated the Office of Court Administration as the state agency responsible for carrying out the legislature's mandate to obtain "permanent placement" for these "abused or neglected children." *Id.* The 1993 amendments substitute the Office of the Attorney General as the state agency charged with implementation of the various programs described in the statute. Fam. Code ch. 34; Acts 1993, 73d Leg., ch. 312.

Pursuant to the provisions of new section 34.602 of the Family Code, the attorney general is directed to "contract for services with each eligible volunteer advocate program

¹The newly enacted provision embraces children who are "under the control or supervision of the Department of Protective and Regulatory Services." Fam. Code § 34.601.

to expand the existing services of the program." Under new section 34.603, the attorney general is instructed to "contract with one statewide organization of individuals or groups of individuals who have expertise in the dynamics of child abuse and neglect and experience in operating volunteer advocate programs." We have been advised that the Office of Court Administration construed the statutes to permit it to contract with one such "statewide organization," which would in turn contract with the various "eligible volunteer advocate programs."

It is well established that the interpretation accorded a statute by the state agency responsible for its implementation is entitled to "great weight" in determining whether a particular construction is valid. *Ex parte Roloff*, 510 S.W.2d 913 (Tex. 1974); *Lumbermen's Underwriters v. State Board of Ins.*, 502 S.W.2d 217 (Tex. Civ. App.--Austin 1973, writ ref'd n.r.e.); *see also Greenwood v. El Paso*, 186 S.W.2d 1015 (Tex. Civ. App.--El Paso 1945, no writ). The predecessor statute to House Bill 1662 was adopted in 1989, and, as we have noted, amended with only procedural changes in 1993. Thus, *two* regular sessions of the legislature have presumably approved the construction placed on the statutes by the Office of Court Administration. In our opinion, it is obvious that an administrative interpretation should be deemed particularly persuasive where, as here, it is the product of an agency which is itself an arm of the supreme court. We conclude, therefore, that since the Office of the Attorney General is in this instance the successor agency to the Office of Court Administration, it may construe the amended statutes to permit it to contract with one "statewide organization," which would in turn contract with the various "eligible volunteer advocate programs." Fam. Code § 34.602

You also ask whether the "statewide organization is eligible to receive six percent of the funds appropriated for 'administration' by new section 34.612(c) of the Family Code." Section 72.052(c) of the Government Code, the predecessor statute to section 34.612(c), authorized the Office of Court Administration to "use [not] more than six percent of the annual legislative appropriation it receives to implement this chapter for administration and not more than six percent annually for the contract described in Section 72.043 of this chapter." *Cf.* Fam. Code § 34.612(c) (same wording except changed "Section 72.043" of the Government Code to "Section 34.603" of the Family Code). In conformity with its construction of former section 72.043, the Office of Court Administration interpreted former section 72.052(c) to permit the "statewide organization" to receive the entire amount appropriated for "management," *i.e.*, up to 12 percent of the annual legislative appropriation. Under the reasoning employed in our answer to your first question, we believe that the courts would approve the construction adopted by the Office of Court Administration and would, accordingly, hold that the "statewide organization" is eligible to receive "six percent of the funds appropriated for administration by section 34.612.

S U M M A R Y

The Office of the Attorney General, as the successor agency to the Office of Court Administration for purposes of administering court-appointed volunteer advocate programs for abused or neglected children, may contract with one "statewide organization" both to administer the overall program *and* to subcontract with various "eligible volunteer advocate programs." In accordance therewith, the "statewide organization" is eligible to receive up to 12 percent of funds appropriated for the overall program.

Yours very truly,

A handwritten signature in black ink, appearing to read "Rick Gilpin", with a stylized flourish at the end.

Rick Gilpin
Deputy Chief
Opinion Committee